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HOUSE BILL 34

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SPECIAL SESSION, 1998

INTRODUCED BY

Earlene Roberts

AN ACT

**RELATING TO HEALTH; PROVIDING FOR DEVELOPMENT AND
IMPLEMENTATION OF A PLAN FOR THE GROWTH OF INTERMEDIATE CARE
FACILITIES FOR THE MENTALLY RETARDED; MAKING AN APPROPRIATION
TO PROVIDE SERVICES FOR NEW CLIENTS UNDER THE WAIVER PROGRAM
FOR DEVELOPMENTALLY DISABLED PERSONS; DECLARING AN EMERGENCY.**

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**Section 1. INTERMEDIATE CARE FACILITIES FOR THE MENTALLY
RETARDED-- LICENSURE MORATORIUM --**

**A. The department of health shall not issue a
license to any new intermediate care facility for the mentally
retarded, and the department shall not issue a license for an
increase beyond the intermediate care bed capacity for the
mentally retarded that existed on January 1, 1998. No
intermediate care facility shall apply for a license except as**

. 124155. 1

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1 provided in Subsection B of this section.

2 B. Except as provided in Subsection C of this
3 section for transfers, the department may accept applications
4 for and issue licenses to intermediate care facilities for the
5 mentally retarded on and after the earliest of the following
6 dates:

7 (1) July 1, 1999, provided that the secretary
8 of human services certifies to the secretary of health that
9 the human services department and the department of health
10 have approved and presented to the first session of the forty-
11 fourth legislature a plan to control the growth of
12 intermediate care facilities for the mentally retarded and to
13 establish the future role of intermediate care facilities for
14 the mentally retarded in the developmental disabilities
15 service system; or

16 (2) the date the secretary of health
17 certifies to the department of finance and administration that
18 an emergency exists that threatens the health and safety of
19 persons with developmental disabilities, but licenses issued
20 pursuant to this paragraph shall not exceed the total
21 statewide bed capacity in intermediate care facilities for the
22 mentally retarded that existed on January 1, 1998.

23 C. Upon application, the department shall license
24 no more than eighty beds beyond the total of licensed and
25 operating intermediate care facilities for the mentally

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underscored material = new
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1 retarded as of January 1, 1998 to currently licensed
2 intermediate care facilities for the mentally retarded for the
3 purposes of this subsection, provided that:

4 (1) the facilities are licensed to provide
5 sufficient beds and care for no more than four mentally
6 retarded persons per residence;

7 (2) the facilities include fiscal,
8 geographic, service and access criteria pursuant to rules
9 adopted by the department of health necessary to provide for
10 the needs of persons in need of those facilities;

11 (3) the facilities are in accordance with the
12 freedom of choice provisions of Title 19 of the Social
13 Security Act;

14 (4) the facilities are located no closer than
15 one hundred fifty feet from an existing intermediate care
16 facility for the mentally retarded, home for persons with
17 development disabilities or a nursing home; and

18 (5) eight of the eighty beds shall be exempt
19 from the provisions of Paragraphs (1) through (4) of this
20 subsection and are transferred to the Las Vegas medical center
21 by the department of health for the purposes of programs for
22 persons with developmental disabilities.

23 D. As used in this section, "intermediate care
24 facility for the mentally retarded" means any intermediate
25 care facility eligible for certification as an intermediate

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1 care facility for the mentally retarded.

2 Section 2. APPROPRIATION. -- Eleven million dollars
3 (\$11,000,000) is appropriated from the general fund to the
4 department of health for expenditure in fiscal years 1998 and
5 1999 for the purpose of providing services to new clients not
6 currently enrolled in the waiver program for developmentally
7 disabled persons. Any unexpended or unencumbered balance
8 remaining at the end of fiscal year 1999 shall revert to the
9 general fund.

10 Section 3. DELAYED REPEAL. -- Section 1 of this act is
11 repealed on July 1, 2000.

12 Section 4. EMERGENCY. -- It is necessary for the public
13 peace, health and safety that this act take effect
14 immediately.